

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

- - -

UNITED STATES OF AMERICA,	.	Case No. 1:09-cr-148
	.	
Plaintiff,	.	
	.	<b>Arraignment and Plea</b>
- v -	.	
	.	Tuesday, October 13, 2009
GARY D. COOLEY,	.	3:45 PM
	.	
Defendant.	.	Cincinnati, Ohio
. . . . .	.	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE HERMAN J. WEBER, SENIOR JUDGE

For the Plaintiff: KEVIN C. CULUM, ESQ.  
MACHELLE L. JINDRA, ESQ.  
United States Department of Justice  
Antitrust Division  
Carl B. Stokes U.S. Court House  
801 West Superior Avenue, 14th Floor  
Cleveland, Ohio 44113-1857

For the Defendant:

DOUGLAS E. GROVER, ESQ.	STEPHEN J. BUTLER, ESQ.
Thompson Hine LLP	Thompson Hine LLP
335 Madison Avenue	1400 Scripps Center
12th Floor	312 Walnut Street
New York, New York 10017-4611	Cincinnati, Ohio 45202-4089

Also present: Laurie Cooke, Pretrial Services  
Laura S. Jensen, Probation Officer

Law Clerk: Amy Peters Thomas, Esq.

Courtroom Deputy: Darlene Maury

Court Reporter: Luke T. Lavin, RDR, CRR  
838 Potter Stewart U.S. Courthouse  
100 East Fifth Street  
Cincinnati, Ohio 45202

*Proceedings recorded in stenotype;  
transcript prepared by computer.*

P R O C E E D I N G S

(In open court at 3:45 PM.)

THE COURT: Thank you. Please be seated.

Proceed, Ms. Maury.

COURTROOM DEPUTY: Judge, on the docket this afternoon is Criminal Action 09-148, United States of America versus Gary D. Cooley. Appearing on behalf of the government is Kevin Culum and Machelie Jindra. Appearing on behalf of the defense is Douglas Grover and Stephen Butler, and the defendant is present in the courtroom.

THE COURT: As I understand it, there's a motion to unseal the documents.

MR. CULUM: Yes, Your Honor.

THE COURT: The Court will grant the motion, and the documents are entered into the record of the court.

MR. CULUM: Thank you, Your Honor.

THE COURT: Proceed, Mr. Culum. We'll make the record a little more formal here. As I understand it, it's the intent of the parties to plead to an Information.

MR. CULUM: That is correct, Your Honor. The Information has been filed and now is under seal, and we've entered into a plea agreement. Mr. Cooley has been cooperating literally from the beginning, and so --

THE COURT: Let's see. Are you Mr. Cooley?

THE DEFENDANT: Yes; yes, Your Honor.

1 THE COURT: And are you represented by a lawyer?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And who is your lawyer?

4 THE DEFENDANT: Douglas Grover and Stephen Butler.

5 THE COURT: And, Mr. Grover, have you explained to  
6 your client his right to have the matter considered by the  
7 grand jury?

8 MR. GROVER: Yes, I have, Your Honor.

9 And before I proceed, Your Honor, I'm from New York and I  
10 have submitted or attempted to submit an application  
11 electronically to be admitted pro hac vice. My understanding  
12 is that, because this was a sealed proceeding until moments  
13 ago, that application has not been accepted yet by the Clerk's  
14 office, but we will make it appropriately after this  
15 proceeding.

16 MR. BUTLER: Your Honor, if necessary, Mr. Grover is  
17 my partner, and I will move his admission pro hac vice for  
18 purposes of this afternoon's proceedings.

19 THE COURT: All right. Thank you very much, Mr.  
20 Butler.

21 Are you admitted to a district court somewhere in the big  
22 wide world?

23 MR. GROVER: I certainly am, Your Honor. The Eastern  
24 and Southern Districts of New York.

25 THE COURT: Thank you.

1 MR. GROVER: And in answer to Your Honor's question,  
2 both Mr. Butler and I have discussed our client's right to be  
3 indicted by a grand jury.

4 THE COURT: And what's your advice to your client?

5 MR. GROVER: We have advised him to waive indictment  
6 and proceed in this fashion.

7 THE COURT: All right.

8 Mr. Cooley, by giving up this right to go before the grand  
9 jury --

10 And please understand you cannot be required to stand trial  
11 in this court until a grand jury agrees that there's probable  
12 cause that you should.

13 However, you do have a right to proceed in this manner, but  
14 by proceeding in this manner you do not give up any of your  
15 other constitutional rights. You have the right to plead not  
16 guilty. You have the right to be tried by a jury. You have a  
17 right to be represented by a lawyer throughout the trial, the  
18 proceedings. You have a right to face the prosecution  
19 witnesses, and you have a right to compel witnesses to come in  
20 and testify on your behalf. And the United States must prove  
21 the charge beyond a reasonable doubt to a group of 12  
22 individuals that you and I will help pick at random called the  
23 jury, and they must find beyond a reasonable doubt that you did  
24 certain things before the cloak of presumption of innocence is  
25 taken away from you.

1       So it's important that you realize that all you're giving  
2 up at this particular time in the proceeding is the right to  
3 have the grand jury consider your case. And if you feel it's  
4 in your own best interest to proceed in this manner, you may  
5 sign the written waiver that is before you, and Mr. Grover will  
6 explain the agreement to you.

7       (Mr. Grover and the defendant confer privately.)

8       THE COURT: Let the record show that the Judge has  
9 observed the defendant sign the waiver here in open court.

10      Mr. Cooley, is this your signature on the agreement?

11      THE DEFENDANT: Yes, Your Honor.

12      THE COURT: And you want to proceed in this manner, is  
13 that --

14      THE DEFENDANT: Yes, Your Honor.

15      THE COURT: And you feel you're acting in our own best  
16 interest?

17      THE DEFENDANT: Yes, Your Honor.

18      THE COURT: The Court will accept the waiver of  
19 indictment and order the Information filed, and it will become  
20 the charging document in this court.

21      Before we proceed any further, I want to be sure that you  
22 understand what the Information says, so I'm going to ask Mr.  
23 Culum to present the Information to the record in this case.

24      THE DEFENDANT: Okay.

25      MR. CULUM: Thank you, Your Honor.

1       The Information is entitled "United States of America v.  
2 Gary D. Cooley." Caption: "Information, Conspiracy to  
3 Restrain Trade, 15 U.S.C. Section 1."

4       The United States of America, acting through its attorney,  
5 charges:

6       1. Gary D. Cooley is hereby made a defendant on the charge  
7 stated below.

8       Roman numeral I. Heading: Description Of The Offense.

9       Paragraph 2. Beginning at least as early as June 1st,  
10 2006, and continuing until at least July 17th, 2007, the exact  
11 dates being unknown to the United States, the defendant and  
12 co-conspirators entered into and engaged in a conspiracy to  
13 suppress and eliminate competition by allocating packaged-ice  
14 customers in southeastern Michigan and the Detroit, Michigan,  
15 metropolitan area. The charged conspiracy unreasonably  
16 restrained interstate trade and commerce, in violation of  
17 Section 1 of the Sherman Act, 15 U.S.C. Section 1.

18       Paragraph 3. The charged conspiracy consisted of a  
19 continuing agreement, understanding, and concert of action  
20 among the defendant and co-conspirators, the substantial terms  
21 of which were to allocate packaged-ice customers in  
22 southeastern Michigan and the Detroit, Michigan, metropolitan  
23 area.

24       Roman numeral II. Heading: Means And Methods Of The  
25 Conspiracy.

1 Paragraph 4. For the purposes of forming and carrying out  
2 the charged conspiracy, the defendant and co-conspirators did  
3 the following things, among others:

4 (a) participated in conversations to discuss packaged-ice  
5 customers in southeastern Michigan and the Detroit, Michigan,  
6 metropolitan area;

7 (b) agree during those conversations to allocate packaged-  
8 ice customers in southeastern Michigan and the Detroit,  
9 Michigan, metropolitan area;

10 (c) exchange information during those conversations for the  
11 purposes of monitoring and enforcing adherence to the  
12 agreements to allocate customers in southeastern Michigan and  
13 the Detroit, Michigan, metropolitan area; and

14 (d) refrain from competing for packaged-ice customers that  
15 were so allocated.

16 Roman numeral III. Defendant And Co-Conspirators.

17 Paragraph 5. During the period covered by this  
18 Information, the defendant was the vice president of sales and  
19 marketing of Artic Glacier International Inc., which is a  
20 corporation organized and existing under the laws of the state  
21 of Delaware and does business in multiple states, with its  
22 principal place of business in St. Paul, Minnesota.

23 Paragraph 6. Various individuals and corporations not made  
24 defendants in this Information participated as co-conspirators  
25 in the offense charged and performed acts and made statements

1 in furtherance of it.

2 Roman numeral IV. Caption: Trade And Commerce.

3 Paragraph 7. During the period covered by this  
4 Information, the defendant and co-conspirators: (1)  
5 manufactured packaged ice; (2) distributed packaged ice to  
6 retailers in southeastern Michigan and the Detroit, Michigan,  
7 metropolitan area; and (3) caused packaged ice to be purchased  
8 from, sold to, or distributed from or to, individuals and  
9 companies located inside and outside of southeastern Michigan  
10 and the Detroit, Michigan, metropolitan area.

11 Paragraph 8. During the period covered by this  
12 Information, substantial quantities of packaged ice  
13 manufactured and sold by the defendant was shipped across state  
14 lines in a continuous and uninterrupted flow of interstate  
15 trade and commerce.

16 Paragraph 9. The business activities of the defendant and  
17 co-conspirators that are the subject of this Information were  
18 within the flow of, and substantially affected, interstate  
19 trade and commerce.

20 Roman numeral V. Caption: Venue.

21 The conspiracy charged in this Information was formed and  
22 carried out within the Southern District of Ohio, Western  
23 Division. At least one of the conspiratorial meetings --

24 It should read "discussions," Your Honor. It was  
25 "discussions," not "meetings."



1 -- described above took place in Cincinnati, Ohio, which is  
2 located within the Southern District of Ohio. Acts in  
3 furtherance of this conspiracy were carried out within the five  
4 years preceding the filing of this Information.

5 All in violation of Title 15, United States Code, Section  
6 1.

7 It is signed by the Assistant Attorney General Christine  
8 Varney; the Deputy Assistant Attorney General Scott Hammond;  
9 the Director of Criminal Enforcement Marc Siegel; the chief of  
10 our office in Cleveland, Scott Watson; and myself, Kevin Culum.

11 THE COURT: Has Mr. Grover explained to you the  
12 meaning of this --

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: -- charge?

15 THE DEFENDANT: Yes.

16 THE COURT: And are you prepared to plead to this  
17 charge at this time?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And how do you plead?

20 THE DEFENDANT: I plead guilty.

21 THE COURT: Before accepting your plea of guilty, I  
22 must determine that it is made voluntarily, with an  
23 understanding of the nature of the charge and the consequences  
24 of the plea. By offering to plead guilty, you give up certain  
25 of your constitutional rights. This must be an intentional

1 giving up of rights and privileges that you now have.

2 Please understand that I need not accept your plea unless  
3 satisfied of your guilt and that you fully understand your  
4 rights. In order to make this determination, I must ask you  
5 some questions. Before I do, it's necessary you obligate  
6 yourself to tell the truth. Once having been sworn, your  
7 answers to my questions will be subject to the penalties of  
8 perjury, of making a false statement, or possibly contempt of  
9 court if you do not answer truthfully.

10 Are you willing to accept the obligation to tell the truth?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Would you swear the witness.

13 COURTROOM DEPUTY: Mr. Cooley, please stand and raise  
14 your right hand.

15 (The defendant was duly sworn by the courtroom deputy.)

16 COURTROOM DEPUTY: Thank you. Be seated.

17 THE COURT: Mr. Cooley, how much education do you  
18 have?

19 THE DEFENDANT: I have a high school degree and some  
20 college.

21 THE COURT: We're speaking in the English language?

22 THE DEFENDANT: Yes.

23 THE COURT: You see, the record doesn't have any eyes,  
24 so I have to ask you these questions so I'm satisfied that  
25 whomever reads this record will understand we're speaking in

1 English.

2 THE DEFENDANT: Okay.

3 THE COURT: Can you understand me?

4 THE DEFENDANT: Yes.

5 THE COURT: And I can understand you.

6 THE DEFENDANT: Okay.

7 THE COURT: Have you taken any narcotic drugs,  
8 medicine or pills or drunk any alcoholic beverages in the past  
9 24 hours?

10 THE DEFENDANT: I have not.

11 THE COURT: Mr. Grover, do you have any doubt as to  
12 the defendant's competency to plead at this time?

13 MR. GROVER: No, I do not, Your Honor.

14 THE COURT: Now, we just read together the Information  
15 that charges you with this violation. Do you understand the  
16 nature and meaning of this charge?

17 THE DEFENDANT: I do.

18 THE COURT: Have you told your lawyer everything you  
19 know about this case?

20 THE DEFENDANT: I have.

21 THE COURT: Do you believe your lawyer is fully  
22 informed about the facts and circumstances on which this charge  
23 is based?

24 THE DEFENDANT: I do.

25 THE COURT: Has your lawyer fully informed counsel and

1 advised you on the nature and meaning of this charge?

2 THE DEFENDANT: Yes, they have.

3 THE COURT: Now, before you can be determined guilty  
4 of this charge, the United States must prove certain things  
5 beyond a reasonable doubt to a group of individuals that we'll  
6 select at random -- you and I will help select them -- from the  
7 general public called the jury, and the jury must find beyond a  
8 reasonable doubt that you did these things. They're called  
9 elements.

10 The elements of this charge is that the conspiracy,  
11 agreement, or understanding described in the Information --

12 And you recall we just read that together.

13 THE DEFENDANT: I do.

14 THE COURT: -- was knowingly formed and was existing  
15 at or about June 1, 2006, and continuing until at least July  
16 the 17th, 2007, that you knowingly became a member of the  
17 conspiracy agreement or understanding as charged, and that the  
18 conspiracy constituted an unreasonable restraint of interstate  
19 commerce, and that the offense was carried out in part in the  
20 Southern District of Ohio within five years preceding the  
21 filing of the Information.

22 And the Southern District of Ohio, for your information, is  
23 the southern half of Ohio. If you would draw a line from the  
24 east to the west border north of Columbus, and the land south  
25 of there is the Southern District of Ohio, to the river.

1 Cincinnati, Hamilton, Lebanon, Batavia are in the Southern  
2 District of Ohio.

3 THE DEFENDANT: Okay.

4 THE COURT: Now, do you understand that you will admit  
5 that you did all these things beyond a reasonable doubt?

6 THE DEFENDANT: Yes, I do.

7 THE COURT: Now, do you know what the maximum possible  
8 penalty for this offense is?

9 THE DEFENDANT: Yes, I've been informed.

10 THE COURT: And what is it?

11 THE DEFENDANT: A term of imprisonment for ten years,  
12 a fine in an amount equal to the greatest of 1 million or twice  
13 the gross pecuniary gain of the conspirators derived from the  
14 crime, or twice the gross pecuniary loss caused to the victims  
15 of the crime by the conspirators, and a term of supervised  
16 release of three years following any term of imprisonment. The  
17 Court may order me to pay restitution to the victims of the  
18 offense, and the Court is required to order the defendant to  
19 pay a hundred dollar special assessment upon conviction of the  
20 charged crime.

21 THE COURT: Now, the importance of the supervised  
22 release is this, that at the time of sentencing, if you're  
23 sentenced to the penitentiary, you'd also be sentenced to a  
24 term of supervised release of up to three years. At the time  
25 of sentencing, conditions on your conduct during the period of

1 supervised release will be set. If you should violate those  
2 conditions during the term of supervised release, you could be  
3 returned to the penitentiary for a period of time, and under  
4 these circumstances two years. So under the worst scenario  
5 from your point of view, you could serve 12 years in the  
6 penitentiary.

7 Do you understand?

8 THE DEFENDANT: I understand, Your Honor.

9 THE COURT: Now, the Court will impose a sentence and  
10 is required by law to impose a sentence that is sufficient but  
11 not greater than necessary to follow the dictates of Congress  
12 set forth in Title 18, United States Code, Section 3553. One  
13 of the things that we will consider during that time will be  
14 the Sentencing Guidelines.

15 Now, I'm sure you have discussed the Sentencing Guidelines  
16 and have considered them. And what is your information as to  
17 the Sentencing Guidelines applicable to your case?

18 THE DEFENDANT: It's level 13, Your Honor, is I  
19 believe what I've been informed of.

20 THE COURT: 12 to 18.

21 THE DEFENDANT: Yeah.

22 THE COURT: I mean, 12 to 18, I think, is the range  
23 that's set there.

24 THE DEFENDANT: Yes. Offense level 13, 12 to 18.

25 THE COURT: All right. So that's what the Guidelines

1 would provide in your case if it turns out that those are the  
2 facts justifying that range.

3 Now, please understand that that is advisory, that the  
4 Court has the authority to sentence you above the Guideline  
5 range or below the Guideline range.

6 And do you understand that under the Sentencing Reform Act  
7 that there is no parole?

8 THE DEFENDANT: Yes, I do, Your Honor.

9 THE COURT: And do you understand that under certain  
10 circumstances either you or the United States may appeal any  
11 sentence imposed?

12 THE DEFENDANT: Yes, I do, Your Honor.

13 THE COURT: And do you also understand that you may  
14 lose your right to vote; you will lose your right to possess a  
15 firearm; you may not serve on a jury or hold public office as  
16 collateral consequences of your plea?

17 THE DEFENDANT: Yes, I do, Your Honor.

18 THE COURT: Now, are you an American citizen?

19 THE DEFENDANT: Yes, I am.

20 THE COURT: Now, please understand that after you are  
21 sentenced you will have no right to withdraw your guilty plea.

22 THE DEFENDANT: Yes, I do.

23 THE COURT: Now, the sentence that will be imposed in  
24 your case will be determined by applying these particular  
25 elements to the discussion, and it's your responsibility and my

1 responsibility to consider all information that will help us in  
2 formulating a just sentence in your case. The magic words are  
3 "sufficient but not greater than necessary" to accomplish these  
4 purposes. And what we will consider are these: the nature and  
5 circumstances of this offense and your history and  
6 characteristics, the need for the sentence imposed to reflect  
7 the seriousness of the offense, to promote respect for the law,  
8 and to provide just punishment for the offense, to afford  
9 adequate deterrence to criminal conduct generally, to protect  
10 the public from further crimes you may commit, and to provide  
11 you with needed educational or vocational training, medical  
12 care, or other correctional treatment in the most effective  
13 manner, and the kinds of sentences available and the  
14 applicability of the Guidelines, which we've already discussed.

15 Now, do you realize that we will discuss all of those items  
16 and that it is our duty to come up with that sentence: that is  
17 sufficient but not greater than necessary?

18 THE DEFENDANT: Yes, I understand, Your Honor.

19 THE COURT: Now, since you know how the sentence will  
20 be imposed and since you know the maximum sentence that can be  
21 imposed, do you still wish to plead guilty?

22 THE DEFENDANT: Yes, I do, Your Honor.

23 THE COURT: Do you understand that if I accept your  
24 plea of guilty, I can impose the maximum sentence?

25 THE DEFENDANT: Yes, I do, Your Honor.



1 THE COURT: And please understand that if I accept  
2 your guilty plea, I may or may not place you on probation.

3 THE DEFENDANT: Yes, I do, Your Honor.

4 THE COURT: I advise you that under the Constitution  
5 and laws of the United States, you have the right to plead not  
6 guilty. You have the right to be tried by a jury, and at such  
7 a speedy and public trial you would have the right to the  
8 assistance of a lawyer, the right to confront and cross-examine  
9 witnesses against you, and the right not to be compelled to  
10 incriminate yourself.

11 At such trial you would be presumed innocent until such  
12 time, if ever, as the United States established your guilt by  
13 legal evidence beyond a reasonable doubt. At such trial you  
14 would be entitled to compulsory process, to call witnesses on  
15 your behalf.

16 Do you understand that if your plea of guilty here is  
17 accepted, you will give up all of these rights that I have  
18 mentioned?

19 THE DEFENDANT: I understand.

20 THE COURT: And do you understand that if you plead  
21 guilty, there will not be a further trial of any kind in your  
22 case, so that by pleading guilty, you are giving up your right  
23 to a trial?

24 THE DEFENDANT: I understand.

25 THE COURT: And do you understand that if your plea of

1 guilty is accepted, the Court can impose the same penalty as  
2 though you pled not guilty, stood trial, and had been convicted  
3 by a jury?

4 THE DEFENDANT: I understand.

5 THE COURT: If you plead guilty, do you understand  
6 that you'll also have to give up your right not to incriminate  
7 yourself, since I will have to ask you questions about what you  
8 did in order to satisfy me that you are guilty as charged and  
9 you will have to acknowledge your guilt?

10 THE DEFENDANT: I understand.

11 THE COURT: Are you willing to give up your right to a  
12 trial and the other rights I have just discussed?

13 THE DEFENDANT: Yes, I do, Your Honor.

14 THE COURT: Proper plea agreements are permissible.  
15 However, you and the lawyers have a duty to disclose to the  
16 record any terms of any plea agreement.

17 It is my understanding that you have entered into a plea  
18 agreement in this case. Is that correct?

19 THE DEFENDANT: Yes, it is, Your Honor.

20 THE COURT: I'm going to ask Mr. Culum to display the  
21 plea agreement onto the record. Please listen as he does so,  
22 follow along. After he has completed his presentation, I may  
23 ask you some questions about the plea agreement.

24 THE DEFENDANT: (Nods head up and down.)

25 THE COURT: Proceed, Mr. Culum.

1 MR. CULUM: Thank you, Your Honor.

2 United States of America v. Gary D. Cooley. Heading: Plea  
3 Agreement.

4 The United States of America and Gary D. Cooley,  
5 parentheses, defendant, hereby enter into the following plea  
6 agreement pursuant to Rule 11(c)(1)(B) of the Federal Rules of  
7 Criminal Procedure:

8 1. The defendant understands his rights:

9 (a) to be represented by an attorney;

10 (b) to be charged by Indictment;

11 (c) to plead not guilty to any criminal charge brought  
12 against him;

13 (d) to have a trial by jury at which he would be presumed  
14 not guilty of the charge and the United States would have to  
15 prove every essential element of the charged offense beyond a  
16 reasonable doubt for him to be found guilty;

17 (e) to confront and cross-examine witnesses against him and  
18 to subpoena witnesses in his defense at trial;

19 (f) not to be compelled to incriminate himself;

20 (g) to appeal his conviction, if he is found guilty; and

21 (h) to appeal the imposition of sentence against him.

22 Title: Agreement To Plead Guilty And Waive Certain Rights.

23 Paragraph 2. The defendant knowingly and voluntarily  
24 waives the rights set out in paragraphs 1(b) through (h) above.  
25 The defendant also knowingly and voluntarily waives the right

1 to file any appeal, any collateral attack, or any other writ or  
2 motion including, but not limited to, an appeal under 18 U.S.C.  
3 Section 3742 or a motion under 28 U.S.C. Section 2241 or 2255,  
4 that challenges the sentence imposed by the Court if that  
5 sentence is consistent with the Guidelines calculations  
6 described in paragraph 8 of this plea agreement. This  
7 agreement does not affect the rights or obligations of the  
8 United States as set forth in 18 U.S.C. Section 3742(b).  
9 Nothing in this paragraph, however, shall act as a bar to the  
10 defendant perfecting any legal remedies he may otherwise have  
11 on appeal or a collateral attack respecting the claims of  
12 ineffective assistance of counsel or prosecutorial misconduct.  
13 Pursuant to Federal Rule of Criminal Procedure 7(b), the  
14 defendant will waive indictment and plead guilty at arraignment  
15 to a one-count Information to be filed in the United States  
16 District Court for the Southern District of Ohio. The  
17 Information will charge the defendant with participating in a  
18 conspiracy to suppress and eliminate competition by agreeing  
19 with other packaged-ice manufacturers to allocate customers in  
20 southeastern Michigan and the Detroit, Michigan, metropolitan  
21 area, beginning at least as early as June 1st, 2006, and  
22 continuing until at least July 17th, 2007, in violation of the  
23 Sherman Antitrust Act, 15 U.S.C. Section 1.

24 Paragraph 3. The defendant, pursuant to the terms of this  
25 plea agreement, will plead guilty to the criminal charge

1 described in paragraph 2 above and will make a factual  
2 admission of guilt to the Court in accordance with Federal Rule  
3 of Criminal Procedure 11, as set forth in paragraph 4 below.  
4 The United States agrees that, at the arraignment, it will  
5 stipulate to the release of the defendant on his personal  
6 recognizance, pursuant to 18 U.S.C. Section 3142, pending the  
7 sentencing hearing in this case.

8 Title: Factual Basis For The Offense Charged.

9 Paragraph 4. Had this case gone to trial, the United  
10 States would have presented evidence sufficient to prove the  
11 following facts:

12 (a) For purposes of this plea agreement, the relevant  
13 period is that period beginning at least as early as June 1st,  
14 2006, and continuing until at least July 17th, 2007. During  
15 the relevant period, the defendant was vice president, sales  
16 and marketing, of Artic Glacier International Inc., "Artic  
17 Glacier," a corporation organized and existing under the laws  
18 of the state of Delaware, which does business in multiple  
19 states, and with its principal place of business in St. Paul,  
20 Minnesota. During the relevant period, Artic Glacier was the  
21 producer of packaged ice in multiple states and was engaged in  
22 the sale of packaged ice. Packaged ice is marketed as a  
23 high-grade ice for human consumption and is sold in varying  
24 sizes, blocks, big bags, and small bags.

25 (b) During the relevant period, the defendant resided in

1 and maintained a home office in Cincinnati, Ohio, which is  
2 located in the Southern District of Ohio.

3 (c) During the relevant period, the defendant participated  
4 in a conspiracy to allocate customers of packaged ice sold in  
5 southeastern Michigan and the Detroit, Michigan, metropolitan  
6 area. In furtherance of the conspiratorial activity, the  
7 defendant engaged in discussions with representatives of other  
8 packaged-ice producers. During these discussions, agreements  
9 were reached to allocate customers of packaged ice to be sold  
10 in southeastern Michigan and the Detroit, Michigan,  
11 metropolitan area.

12 During the relevant period, Artic Glacier sales of packaged  
13 ice affecting customers totaled over \$10 million.

14 (e) During the relevant period, packaged ice sold by one or  
15 more of the conspirator firms, and equipment and supplies  
16 necessary to the production and distribution of packaged ice,  
17 as well as payments for packaged ice, traveled in interstate  
18 commerce. The business activities of the defendant's employer  
19 and its co-conspirators in connection with the production and  
20 sale of packaged ice affected by this conspiracy were within  
21 the flow of, and substantially affected, interstate trade and  
22 commerce.

23 (f) Acts in furtherance of this conspiracy were carried out  
24 within the Southern District of Ohio, Western Division. At  
25 least one of the conspiratorial discussions described above

1 took place in Cincinnati, Ohio, which is located within the  
2 Southern District of Ohio.

3 Caption: Possible Maximum Sentence.

4 Paragraph 5. The defendant understands that the statutory  
5 maximum penalty which may be imposed against him upon  
6 conviction for a violation of Section 1 of the Sherman Act is,  
7 Antitrust Act is:

8 (a) a term of imprisonment for ten years, 15 U.S.C. Section  
9 1;

10 (b) a fine in an amount equal to the greatest of (1) 1  
11 million, (2) twice the gross pecuniary gain the conspirators  
12 derived from the crime, or (3) twice the gross pecuniary loss  
13 caused to the victims of the crime by the conspirators, 15  
14 U.S.C. Section 1, 18 U.S.C. Section 3571(b) and (d); and

15 (c) a term of supervised release of three years following  
16 any term of imprisonment. If the defendant violates any  
17 condition of supervised release, the defendant could be  
18 required to serve up to two years in prison, 18 U.S.C. Section  
19 3559(a)(3), 18 U.S.C. Section 3583(b)(2) and (e)(3), and the  
20 United States Sentencing Guidelines Section 5D1.2(a)(2).

21 6. In addition, the defendant understands that:

22 (a) pursuant to United States Sentencing Guideline Section  
23 5E1.1 or 18 U.S.C. Section 3663(a)(2) -- (a)(3), excuse me, or  
24 3583(d), the Court may order him to pay restitution to the  
25 victims of the offense; and

1 (b) pursuant to 18 U.S.C. Section 3013(a)(2)(A), the Court  
2 is required to order the defendant to pay a \$100 special  
3 assessment upon conviction for the charged crime.

4 Title: Sentencing Guidelines.

5 Paragraph 7. The defendant understands that the Sentencing  
6 Guidelines are advisory, not mandatory, but that the Court must  
7 consider the Guidelines in effect on the day of sentencing,  
8 along with the other factors set forth in 18 U.S.C. Section  
9 3553(a), in determining and imposing sentence. The defendant  
10 understands that the Guideline determinations will be made by  
11 the Court by a preponderance of the evidence standard. The  
12 defendant understands that although the Court is not ultimately  
13 bound to impose a sentence within the absolute applicable  
14 Guidelines range, its sentence must be reasonable based upon  
15 consideration of all relevant sentencing factors set forth in  
16 18 U.S.C. 3553(a). Pursuant to United States Sentencing  
17 Guidelines Section 1B1.8, the United States agrees that self-  
18 incriminating information that the defendant provides to the  
19 United States pursuant to this plea agreement will not be used  
20 to increase the volume of affected commerce attributable to the  
21 defendant or in determining the defendant's applicable  
22 Guidelines range, except to the extent provided in United  
23 States Sentencing Guideline Section 1B1.8(b).

24 Paragraph 8. Pursuant to the United States Sentencing  
25 Guideline Section 6B1.4, the United States and the defendant



1 enter into the following stipulations:

2 (a) The base offense level for the offense to which the  
3 defendant is pleading guilty, as established by United States  
4 Sentencing Guideline 2R1.1(a), is 12.

5 (b) The volume of commerce attributable to the defendant  
6 within the meaning of United States Sentencing Guideline  
7 Section 2R1.1(b)(2) is more than 10 million but less than \$40  
8 million, which increases the offense level by four.

9 (c) For purposes of United States Sentencing Guideline  
10 Section 3E1.1, a three-level reduction of the offense level for  
11 defendant's acceptance of responsibility is appropriate.  
12 However, should the United States obtain or receive additional  
13 evidence or information prior to sentencing that, in its sole  
14 discretion, it determines to be credible and materially in  
15 conflict with this stipulation, then the United States shall no  
16 longer be bound by this stipulation.

17 (d) Based on the foregoing, defendant's adjusted offense  
18 level for the offense to which he is pleading guilty is 13.  
19 The Guidelines incarceration range for offense level 13 is 12  
20 to 18 months' imprisonment. The defendant's appropriate  
21 Guidelines fine range is governed by Section 2R1(c)(1).

22 And evidently we made a mistake.

23 Title: Sentencing Agreement.

24 Paragraph 9. The defendant understands that the sentence  
25 to be imposed on him is within the sole discretion of the

1 sentencing judge. The United States cannot and does not make  
2 any promises or representations as to what sentence he will  
3 receive and is free to recommend any specific sentence to the  
4 Court. However, the United States will inform the probation  
5 office and the Court of (a) this agreement; (b) the nature and  
6 extent of the defendant's activities with respect to this case  
7 and all other activities of the defendant which the United  
8 States deems relevant to sentencing; and (c) the nature and  
9 extent of the defendant's cooperation with the United States.  
10 In so doing, the United States may use any information it deems  
11 relevant, including information provided by the defendant both  
12 prior and subsequent to the signing of this agreement. The  
13 United States reserves the right to make any statement to the  
14 Court or to the probation office concerning the nature of the  
15 criminal violation charged in this Information, the  
16 participation of the defendant therein, and any other facts or  
17 circumstances that it deems relevant. The United States also  
18 reserves the right to comment on or to correct any  
19 representation made by or on behalf of the defendant, and to  
20 supply any other information that the Court may require.

21 Paragraph 10. If the United States determines that the  
22 defendant has provided substantial assistance in any  
23 investigation or prosecution in the packaged-ice industry and  
24 has otherwise fully complied with all of the terms of this plea  
25 agreement, it will file a motion, pursuant to United States

1 Sentencing Guidelines Section 5K1.1, advising the sentencing  
2 judge of all relevant facts pertaining to that determination  
3 and requesting the Court to sentence the defendant in light of  
4 the factors set forth in United States Sentencing Guideline  
5 Section 5K1.1(a)(1) through (5). The defendant acknowledges  
6 that the decision whether he has provided substantial  
7 assistance in any investigation or prosecution of the packaged-  
8 ice industry and has otherwise complied with the terms of this  
9 plea agreement is within the sole discretion of the United  
10 States. It is understood that, should the United States  
11 determine that the defendant has not provided substantial  
12 assistance in any investigation or prosecution of the  
13 packaged-ice industry, or should the United States determine  
14 that the defendant has violated any provision of this plea  
15 agreement, such a determination will release the United States  
16 from any obligation to file a motion the pursuant to United  
17 States Sentencing Guideline Section 5K1.1, but will not entitle  
18 the defendant to withdraw his guilty plea once it has been  
19 entered. The defendant further understands that, whether or  
20 not the United States files a motion pursuant to United States  
21 Sentencing Guideline Section 5K1.1, the sentence to be imposed  
22 on him remains within the sole discretion of the sentencing  
23 judge. To enable the Court to have the benefit of all relevant  
24 sentencing information, the United States may request that  
25 sentencing be postponed until his cooperation is complete.

1 Paragraph 11. The parties agree that they are not aware at  
2 this time of any aggravating or mitigating circumstances of any  
3 kind, or to a degree, not adequately taken into consideration  
4 by the United States Sentencing Commission in formulating the  
5 Sentencing Guidelines justifying a departure pursuant to United  
6 States Sentencing Guideline Section 5K2.0.

7 Paragraph 12. In light of the availability of civil causes  
8 of actions available pursuant to 15 U.S.C. Section 15, the  
9 United States agrees it will not seek a restitution order for  
10 the offense charged in the Information.

11 Paragraph 13. The defendant understands that the Court  
12 will order him to pay a \$100 special assessment pursuant to 18  
13 U.S.C. Section 3013(a)(2)(A) in addition to any fine imposed.

14 Paragraph 14. The defendant understands that, as provided  
15 in Federal Rule of Criminal Procedure 11(c)(3)(B), if the Court  
16 does not impose a sentence consistent with either party's  
17 sentencing recommendation, he nevertheless has no right to  
18 withdraw his plea of guilty.

19 Title: Defendant's Cooperation.

20 Paragraph 15. The defendant will cooperate fully and  
21 truthfully with the United States in prosecution of this case,  
22 the conduct of the current federal investigation of violations  
23 of federal antitrust and related criminal laws involving the  
24 sale of packaged ice in the United States, any other federal  
25 investigation resulting therefrom, and any litigation or other

1 proceedings arising or resulting from any such investigation to  
2 which the United States is a party, parentheses, federal  
3 proceeding. The ongoing, full, and truthful cooperation of the  
4 defendant shall include, but not be limited to:

5 (a) producing all non-privileged documents, including  
6 claimed personal documents, and other materials, wherever  
7 located, in the possession, custody, or control of defendant,  
8 requested by attorneys and agents of the United States;

9 (b) making himself available for interviews, not at the  
10 expense of the United States, upon the request of attorneys and  
11 agents of the United States;

12 (c) responding fully and truthfully to all inquiries of the  
13 United States in connection with any federal proceeding,  
14 without falsely implicating any person or intentionally  
15 withholding any information, subject to the penalties of making  
16 false statements, 18 U.S.C. Section 1001, and obstruction of  
17 justice, 18 U.S.C. 1503, et sequentes;

18 (d) otherwise voluntarily providing the United States with  
19 any non-privileged material or information, not requested in  
20 (a) through (c) of this paragraph, that he may have that is  
21 related to any federal proceeding; and

22 (e) when called upon to do so by the United States in  
23 connection with any federal proceeding, testifying in grand  
24 jury, trial, and other judicial proceedings, fully, truthfully,  
25 and under oath, subject to the penalties of perjury, 18 U.S.C.

1 Section 1621, making false statements or declarations in grand  
2 jury or court proceedings, 18 U.S.C. Section 1623; contempt, 18  
3 U.S.C. Sections 401 and 402; and obstruction of justice, 18  
4 U.S.C. 1503, et sequentes.

5 Title: Government's Agreement.

6 Paragraph 16. Subject to the full and truthful and  
7 continuing cooperation of the defendant, as described in  
8 paragraph 15 of this plea agreement, and upon the Court's  
9 acceptance of the guilty plea called for by this plea agreement  
10 and the imposition of the sentence as determined by the Court,  
11 the United States will not bring further criminal charges  
12 against the defendant for any act or offense committed before  
13 the date of this plea agreement that was undertaken in  
14 furtherance of an attempted or completed antitrust conspiracy  
15 involving the sale of packaged ice or undertaken in connection  
16 with any investigation of such a conspiracy, "relevant offense"  
17 in parentheses. The non-prosecution terms of this paragraph do  
18 not apply to civil matters of any kind, to any violation of the  
19 federal tax or securities laws, or to any crime of violence.

20 Paragraph 17. The defendant understands that he may be  
21 subject to administrative action by federal or state agencies  
22 other than the United States Department of Justice, Antitrust  
23 Division, based upon the conviction resulting from this plea  
24 agreement and that this plea agreement in no way controls  
25 whatever action, if any, other agencies may take. However, the

1 United States agrees that, if requested, it will advise the  
2 appropriate officials of any governmental agency considering  
3 such administrative action of the fact, manner, and extent of  
4 the cooperation of the defendant as a matter for that agency to  
5 consider before determining what administrative action, if any,  
6 to take.

7 Title: Representation By Counsel.

8 Paragraph 18. The defendant has reviewed all legal and  
9 factual aspects of this case with his attorney and is fully  
10 satisfied with his attorney's legal representation. The  
11 defendant has thoroughly reviewed this plea agreement with his  
12 attorney and has received satisfactory explanations from his  
13 attorney concerning each paragraph of this plea agreement and  
14 alternatives available to the defendant other than entering  
15 into this plea agreement. After conferring with his attorney  
16 and considering all available alternatives, the defendant has  
17 made a knowing and voluntary decision to enter into this plea  
18 agreement.

19 Caption: Voluntary Plea.

20 Paragraph 19. The defendant's decision to enter into this  
21 plea agreement and to tender a plea of guilty is freely and  
22 voluntarily made and is not the result of force, threats,  
23 assurances, promises, or representations other than the  
24 representations contained in this plea agreement. The United  
25 States has made no promises or representations to the defendant

1 as to whether the Court will accept or reject the  
2 recommendations contained within this plea agreement.

3       Caption: Violation Of The Plea Agreement.

4       Paragraph 20. The defendant agrees that, should the United  
5 States determine in good faith, during the period that any  
6 federal proceeding is pending, that the defendant has failed to  
7 provide full and truthful cooperation, as described in  
8 paragraph 15 of this plea agreement, or has otherwise violated  
9 any provision of this plea agreement, the United States will  
10 notify the defendant or his counsel in writing by personal or  
11 overnight delivery or facsimile transmission and may also  
12 notify his counsel by telephone of its intention to void any of  
13 its obligations under this plea agreement, except obligations  
14 under this paragraph, and the defendant shall be subject to  
15 prosecution for any federal crime of which the United States  
16 has knowledge including, but not limited to, the substantive  
17 offense relating to the investigation resulting in this plea  
18 agreement. The defendant agrees that, in the event that the  
19 United States is released from its obligations under this plea  
20 agreement and brings criminal charges against the defendant for  
21 any relevant offense, the statute of limitations period for  
22 such offense shall be tolled for the period between the date of  
23 the signing of this plea agreement and six months after the  
24 date the United States gave notice of its intent to void its  
25 obligations under this plea agreement.



1 Paragraph 21. The defendant understands and agrees that in  
2 any further prosecution of him resulting from the release of  
3 the United States from its obligations under this plea  
4 agreement based on the defendant's violation of the plea  
5 agreement, any documents, statements, information, testimony,  
6 or evidence provided by him to attorneys or agents of the  
7 United States, federal grand juries, or courts, and any leads  
8 derived therefrom, may be used against him in any such further  
9 prosecution. In addition, the defendant unconditionally waives  
10 his right to challenge the use of such evidence in any such  
11 further prosecution, notwithstanding the protections of Federal  
12 Rule of Evidence 410.

13 Caption: Entirety Of The Agreement.

14 Paragraph 22. This agreement constitutes the entire  
15 agreement between the United States and the defendant  
16 concerning the disposition of the criminal charge in this case.  
17 This plea agreement cannot be modified except in writing,  
18 signed by the United States and the defendant.

19 Paragraph 23. The undersigned attorneys for the United  
20 States have been authorized by the Attorney General of the  
21 United States to enter this plea agreement on behalf of the  
22 United States.

23 The plea agreement is dated September 10th, 2009, signed by  
24 Mr. Cooley; his attorneys Mr. Grover and Mr. Butler; and  
25 likewise by myself, Kevin Culum

1 THE COURT: Mr. Cooley, is that your signature at the  
2 end of the agreement?

3 THE DEFENDANT: Yes, it is, Your Honor.

4 THE COURT: Would you read me the 22nd paragraph in  
5 the agreement.

6 THE DEFENDANT: "This plea agreement constitutes the  
7 entire agreement between the United States and the defendant  
8 concerning the disposition of the criminal charge in this case.  
9 The plea agreement cannot be modified except in writing, signed  
10 by the United States and the defendant."

11 THE COURT: Have all the agreements you made in this  
12 plea agreement that we've just read into the record, are they  
13 all truthful?

14 THE WITNESS: Yes, they are, Your Honor.

15 THE COURT: And you intend to carry them out?

16 THE DEFENDANT: Yes, I do, Your Honor.

17 THE COURT: Do you have questions at this time?

18 THE DEFENDANT: No, I do not.

19 THE COURT: Has anyone made any promise, other than  
20 the plea agreement, that induced you to plead guilty?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: Aside from the plea agreement, which we  
23 are discussing, has anyone, including an agent or officer of  
24 any law enforcement or government entity, any lawyer, anyone,  
25 any lawyer, anyone, any person, suggested that you'll receive

1 any lighter sentence or any other form of leniency if you'll  
2 plead guilty?

3 THE DEFENDANT: No, Your Honor.

4 THE COURT: Have any threats been made --

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: -- to induce you to plead guilty?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: Do you have any questions at this time at  
9 all? And if you're concerned about asking a question directly  
10 of me, Mr. Grover or Mr. Butler, they'll be glad to ask the  
11 question on your behalf.

12 THE DEFENDANT: I do not, Your Honor.

13 THE COURT: Is it fair, then, for me to believe that  
14 this decision of yours to plead guilty is your voluntary act  
15 and deed?

16 THE DEFENDANT: Yes, it is, Your Honor.

17 THE COURT: Is it fair for me to believe that you're  
18 pleading guilty here today because you are, in fact -- or that  
19 you do realize the nature of the charge against you and the  
20 consequences of that plea?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Now if you'll turn to page 3 of the plea  
23 agreement, please.

24 Now, there is a list of the factual basis for this plea.  
25 Would you please carefully review them for me, and my question

1 is: do you have any additions or corrections or statements you  
2 wish to add to those statements that are contained in that  
3 section of the plea agreement?

4 THE DEFENDANT: No, Your Honor. I've read these a few  
5 times today prior to coming in, and I believe that they are  
6 completely factual.

7 THE COURT: Mr. Grover, has your investigation into  
8 the facts of this case established the truth of the basis of  
9 the offense charged?

10 MR. GROVER: Yes, Your Honor.

11 THE COURT: Mr. Cooley, are the statements contained  
12 there in the plea agreement the truth?

13 MR. GROVER: Yes, they are, Your Honor.

14 THE COURT: Is it fair, then, for me to believe that  
15 you're pleading guilty here today because you are, in fact,  
16 guilty of a violation of Title 15, Section 1, of the Sherman  
17 Antitrust Act?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Is there anything further we should  
20 develop into the record before I make my findings in the  
21 matter, Mr. Culum?

22 MR. CULUM: No, Your Honor.

23 THE COURT: Mr. Grover, anything you wish to add to  
24 the record before I make my findings in the matter?

25 MR. GROVER: No, Your Honor.

1 THE COURT: Mr. Butler, anything?

2 MR. BUTLER: No, Your Honor.

3 THE COURT: I want you to know you're welcome.

4 Mr. Cooley, any questions?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: The trial judge has observed the  
7 appearance and responsiveness of Mr. Cooley, the defendant, in  
8 giving his answers to the questions asked. Based on such  
9 observation and the answers given, the trial judge is satisfied  
10 that Mr. Cooley is in full possession of his faculties. He is  
11 not suffering from any apparent physical or mental illness. He  
12 is not under the influence of narcotics or alcohol. He  
13 understands that his sentence will be determined pursuant to  
14 18, United States Code, Section 3553, and he understands that  
15 the Sentencing Reform Act Guidelines are discretionary and  
16 advisory only.

17 He understands the proceeding in which he is engaged. He  
18 understands the nature and meaning of the charge and the  
19 consequences of his plea of guilty, and he is aware of all plea  
20 negotiations undertaken on his behalf.

21 Do you have any questions at this time about the findings  
22 or the proceedings?

23 THE DEFENDANT: No, I do not, Your Honor.

24 THE COURT: The trial judge therefore finds that the  
25 plea has been made voluntarily, with understanding of the

1 nature of the charge and the consequence of such plea. I will  
2 accept your guilty plea and enter a judgment of guilty to a  
3 violation of Title 15, United States Code, Section 1, the  
4 Sherman Antitrust Act.

5 The matter will be referred to the United States Department  
6 of Probation for a presentence investigation. I'll reserve  
7 ruling on acceptance of the plea agreement until such time as I  
8 have the complete information at the time of sentencing. The  
9 sentence will be set for Thursday, February the 4th, 2010, at  
10 10:00 AM. Thursday, February 4, 10:00 AM, 2010.

11 The probation officer will give us a timeline on collecting  
12 the information necessary to assist us in forming a sufficient  
13 sentence but not greater than necessary. So it's very  
14 important that we cooperate in getting this information  
15 together so that you and I can discuss it at sentencing. So,  
16 please, if you have any complications in that regard, follow  
17 Mr. Grover's advice and get that information together as  
18 quickly as we possibly can to meet the sentencing date of  
19 February the 4th.

20 THE DEFENDANT: I will, Your Honor.

21 THE COURT: I have before me the report of the  
22 pretrial service officer. Have you had a chance to go over  
23 that report and --

24 THE DEFENDANT: Yes, I have, Your Honor.

25 THE COURT: And do you have any corrections or

1 additions you wish to make to the report?

2 THE DEFENDANT: No, I did not.

3 THE COURT: Mr. Grover?

4 MR. GROVER: Your Honor, the only correction, and I  
5 don't think it has a substantive result, is that I believe that  
6 the pretrial officer and Mr. Cooley's wife had difficulty  
7 connecting with each other, and as a result, the pretrial  
8 officer didn't ever speak to Mr. Cooley's wife. His wife is in  
9 the courtroom today. And I know they exchanged phone calls and  
10 then we had the federal holiday yesterday, and so that never  
11 was accomplished. But the recommendation seems to be clear,  
12 and it's consistent with the agreement with the government, so  
13 we have no objection.

14 THE COURT: Any comment, Mr. Culum?

15 MR. CULUM: No, Your Honor.

16 THE COURT: It's extremely important that anyone that  
17 is interested in you, Mr. Cooley, cooperate and get the  
18 information that will assist me and you in determining a just  
19 sentence in your case. So it is extremely important that  
20 anyone that you feel can help us make that decision, that they  
21 cooperate and give the information that you wish them to give  
22 to the probation officer.

23 THE DEFENDANT: I understand, Your Honor.

24 THE COURT: The Court then will accept a  
25 recommendation.

1       At this time I will set the conditions of the bond. The  
2 conditions of the bond will be that you will not violate any  
3 federal, state, or local law while on release, that you must  
4 immediately advise the Court, defense counsel, and the U.S.  
5 Attorney in writing before any change in address or telephone  
6 number, that you promise to appear in court as required and  
7 surrender to serve any sentence imposed, that you execute an  
8 own recognizance bond, that you surrender any passport to the  
9 Clerk of Courts, that you obtain no new passports, that you  
10 refrain from possessing a firearm, destructive device or other  
11 dangerous weapon, that you refrain from any excessive use of  
12 alcohol, that you refrain from use or unlawful possession of  
13 narcotic drugs or any other controlled substance unless  
14 prescribed by a licensed medical practitioner.

15       And are you in a position to turn the passport over today?

16           THE DEFENDANT: Yes. I have that, Your Honor.

17           THE COURT: All right. And I'll hand you the  
18 conditions of the bond. There is a section here called "Advice  
19 of Penalties and Sanctions." I'm going to ask you to go over  
20 them with Mr. Grover and Mr. Butler. If you accept them, then  
21 you may sign the document and we'll proceed in the matter.

22           MR. GROVER: Your Honor, let the record reflect that I  
23 turned over Mr. Cooley's passport to the Court Clerk.

24           THE COURT: Thank you very much, and I will accept  
25 that representation for the record.



1 (Mr. Grover and the defendant confer privately.)

2 THE COURT: Mr. Cooley, do you have any questions  
3 about the penalties or the sanctions?

4 THE DEFENDANT: No, I do not, Your Honor.

5 THE COURT: And do you accept the conditions of the  
6 bond?

7 THE DEFENDANT: Yes, I do, Your Honor.

8 THE COURT: Is there anything further that we should  
9 discuss for the record before I conclude the matter, Mr. Culum?

10 MR. CULUM: Your Honor, I'd just note at this time  
11 again what I mentioned at the beginning. Mr. Cooley, in my  
12 experience as a prosecutor, it's been very rare for somebody to  
13 come in so quickly, and I will make a better note of it at the  
14 time of his sentencing, but I wanted the Judge to know today  
15 that Mr. Cooley came forward almost immediately upon beginning  
16 the investigation, and it was very impressive.

17 THE COURT: Mr. Grover, anything you wish to add to  
18 the record or wish the Court to do in the matter?

19 MR. GROVER: No, Your Honor, not at this time.

20 THE COURT: Mr. Butler?

21 MR. BUTLER: No, Your Honor.

22 THE COURT: The last time, today anyway, any  
23 questions, Mr. Cooley?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: So be it. The defendant is ordered

1 released after processing.

2 MR. GROVER: Your Honor, the defendant has appeared  
3 before the marshals already today for processing, so I take it  
4 he's free to go? He's scheduled to meet with probation in the  
5 morning.

6 THE COURT: If the marshals don't have him in cuffs,  
7 he's ready to go.

8 MR. GROVER: Thank you.

9 COURTROOM DEPUTY: All rise. This honorable court is  
10 now adjourned.

11 (Proceedings concluded at 4:45 PM.)

12 - - -

13 C E R T I F I C A T E

14 I, Luke T. Lavin, RDR, CRR, the undersigned, certify  
15 that the foregoing is a correct transcript from the record of  
16 proceedings in the above-entitled matter.

17  
18 s/Luke T. Lavin  
19 Luke T. Lavin, RDR, CRR  
20 Official Court Reporter

21 - - -  
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